

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CRIMINAL NO. 1:96CR21**

**UNITED STATES OF AMERICA**

**VS.**

**RAYMOND J. FRANCIS**

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**ORDER**

**THIS MATTER** is before the Court on the Defendant's filing entitled, "Informal Fiduciary Appeal," addressed to the undersigned "in an attempt to informally resolve a potential Privacy Act suit against the [Court] for wilfully, premeditating, orchestrating and maliciously conspiring to defraud and sentence [the Defendant] to an illegal sentence that [he is] actually and factually innocent of, by misapplying the correct ordered sequence of the [Guidelines] at [Section] 1B1.1, which was a mandatory Guideline system at the time of [his] sentencing."

The Court is unaware of any mechanism for an "informal fiduciary appeal" nor does the Defendant provide any case law for such procedure in his lengthy pleading. In any event, the Defendant's case has received

the scrutiny of this Court as well as the Fourth Circuit Court of Appeals in this protracted criminal case; the fact remains, his conviction and sentence are final, and this current pleading is totally without merit and frivolous on its face.

Prisoners do not have an absolute and unconditional right of access to the courts in order to prosecute frivolous, malicious, abusive or vexatious motions. ***Demos v. Keating*, 33 Fed. Appx. 918 (10<sup>th</sup> Cir. 2002); *Tinker v. Hanks*, 255 F.3d 444, 445 (7<sup>th</sup> Cir. 2001); *In re Vincent*, 105 F.3d 943 (4<sup>th</sup> Cir. 1997).** The Defendant is hereby warned that future frivolous filings will result in the imposition of a pre-filing review system. ***Vestal v. Clinton*, 106 F.3d 553 (4<sup>th</sup> Cir. 1997).** If such a system is placed in effect, pleadings presented to the Court which are not made in good faith and which do not contain substance, will be summarily dismissed as frivolous. ***Foley v. Fix*, 106 F.3d 556 (4<sup>th</sup> Cir. 1997); *In re Head*, 19 F.3d 1429 (table), 1994 WL 118464 (4<sup>th</sup> Cir. 1994).** Thereafter, if such writings persist, the pre-filing system may be modified to include an injunction from filings. ***See*, 28 U.S.C. §1651(a); *In re Martin-Trigona*, 737 F.2d 1254 (2d Cir. 1984).**

**IT IS, THEREFORE, ORDERED** that the Defendant's "Informal Fiduciary Appeal" is hereby **DENIED**.

Signed: July 20, 2007

A handwritten signature in black ink, appearing to read "L. H. Thornburg", is written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

